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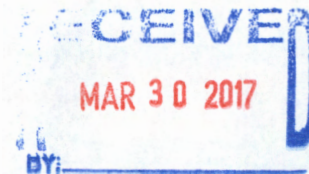
POLLOCK & JAMES, LLP

ATTORNEYS AT LAW
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March 22, 2017

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7015-0640-0002-3404-2992**

Board of Commissioners
Port of Oakland
530 Water Street
Oakland, CA 94607



RE: AMENDED Notice of Violations and Intent to File Suit Under the Clean Water Act

Dear Board of Commissioners:

Section 505(b) of the Federal Water Pollution Control Act ("Clean Water Act") requires that sixty (60) days prior to the initiation of a civil action under 33 U.S.C. §1365(a), §505(a) of the Clean Water Act, a citizen must give notice of his/her intent to sue to the alleged violator, the U.S. Environmental Protection Agency, the State in which the violations occurred and the registered agent of the alleged violator.

Personal Privacy hereby places the Port of Oakland (hereafter "the Port") on notice that following the expiration of sixty (60) days from the date of this NOTICE he intends to bring suit in Federal District Court against the Port for its continuing violations of "an effluent standard or limitation", permit condition or requirement and/or "an order issued by the Administrator or a State with respect to such standard or limitation" under §505(a)(1) of the Clean Water Act, 33 U.S.C. §1365(a)(1), the Code of Federal Regulations, and the Basin Plan, as exemplified by the incidents of non-compliance listed below.

BACKGROUND

Pursuant to §301(a) of the Clean Water Act, 33 U.S.C. §1311(a), the EPA and the State of California, the Port continues to have serious ongoing violations of state and federal discharge standards which are having a significant adverse impact on environmental and public health. The Clean Water Act regulates the discharge of pollutants into navigable waters of the United States. The statute is structured in such a way that all discharge of pollutants is prohibited with the exception of several enumerated statutory exceptions. One such exception authorizes a polluter which has been issued a permit pursuant to the National Pollution Discharge Elimination System (NPDES) to discharge designated pollutants at certain levels subject to certain conditions. The effluent discharge standards or limitations specified in a NPDES permit define the scope of the authorized exception to the 33 U.S.C. §1311(a) prohibition, such that violation of a permit limit places a polluter in violation of 33 U.S.C. §1311(a). Private parties may bring citizens suits

pursuant to 33 U.S.C. §1365 to enforce effluent standards or limitations, which are defined as including violations of 33 U.S.C. §1311(a), 33 U.S.C. §1365(f)(1).

The Clean Water Act provides that, in any given state or region, authority to administer the NPDES permitting system can be delegated by the Federal Environmental Protection Agency (EPA) to a state or to a regional regulatory agency, provided that the applicable state or regional regulatory scheme under which the local agency operates satisfies certain criteria. 33 U.S.C. §1342(b). In California, the EPA has granted authorization to a state regulatory apparatus, comprised of the State Water Resources Control Board and several subsidiary regional water quality control boards to issue NPDES permits. The entity responsible for issuing NPDES permits and otherwise regulating discharges in the region at issue in this case is the Regional Water Quality Control Board (RWQCB).

The Port, owns and operates sewage transmission pipes within the Port of Oakland servicing Buildings 803 and 804 and running adjacent to 19th Street. The transmission lines have a chronic history of inflow and infiltration into the system, as well as cracks in the piping in the system, releasing raw and untreated sewage underground into the soil, thereby releasing untreated wastewater and raw sewage into the ground water and San Francisco Bay. All of which has occurred within the last five-years, all in direct violation of the state and Federal Clean Water Acts.

There are approximately 107,500 linear feet of storm drains and 25,000 linear feet of sanitary sewers within the 366 acre OGD property. Several studies indicate that the SD/SS systems are in poor condition. Prior inspections have revealed that approximately 45 percent of the storm drain pipe and 60 percent of the sanitary sewer pipe that have been examined have defects. Defects are defined as pipe with sags; plant root intrusion; sections that have cracked; developed holes or collapsed; joints that have separated or become misaligned; or blocked due to sediment accumulation. Previous investigation efforts have revealed (a) contaminated sediment within the pipes and catch basins and (b) contaminated soil and groundwater adjacent to portions of defective pipes. The chemicals of concern include petroleum hydrocarbons, polycyclic aromatic hydrocarbons, lead and other heavy metals as well as concentrations of polychlorinated biphenyls, pesticides and raw sewage. Materials from contaminated soils and sanitary sewers are leaching into storm drains which empty into San Francisco Bay.

The Port also has a history of major discharges from the facility's collection system, caused by ruptured pipelines due to inflow and infiltration during periods of heavy rainfall and because the Port's freshwater delivery lines also leak causing a back of head pressure which in turn, forces the leaked raw effluent into Bay waters. The facility's collection system inflow and infiltration problems have caused discharges of raw sewage and treated effluent to surface waters in violation of the prohibition of Clean Water Act by discharging a pollutant from a point source to

waters of the United States without a NPDES permit, Clean Water Act §301(a), 33 U.S.C. §1311(a).

The Port sewage collection lines are over 100 years old and in need of immediate replacement.

The Port and the City of Oakland are currently under a Clean Up and Abatement Order issued by the RWQCB concerning the Former Oakland Army Base, Order Number R2-2004-0086, issued in October of 2004, for this same location.

Pursuant to §309(d) of the Clean Water Act, 33 U.S.C. §1319(d), each of the above described violations of the Clean Water Act subjects the violator to a penalty of up to \$27,500.00 per day per violation, for violations occurring within five (5) years prior to the initiation of a citizen enforcement action. In addition to civil penalties, [Personal Privacy] will seek injunctive relief preventing further violations of the Clean Water Act pursuant to §505(a) and §505(d), 33 U.S.C. §1365(a) & (d), and such other relief as is permitted by law. Lastly, §505(d) of the Clean Water Act, 33 U.S.C. §1365(d), permits prevailing parties to recover costs and fees.

The violations of the Port, as set forth in this NOTICE effect the health and enjoyment of [Person] and the residents who reside and work in the Port and the surrounding towns, as well as California residents who use the waters of the State of California and the United States previously identified in this NOTICE. These residents use the water resources for, agricultural water supply, recreation, sports, fishing, swimming, hiking, photography, nature walks and the like. Their health, use and enjoyment of these natural resources is specifically impaired by the Port's violations of the Clean Water Act.

[Personal Privacy] has retained legal counsel to represent him in this matter. All communications should be addressed to:

Mark S. Pollock, Esq.
Pollock & James, LLP
1792 Second Street
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Telephone: 707-257-3089
Facsimile: 707-257-3096

[Personal Privacy] believes this NOTICE sufficiently states grounds for filing suit. At the close of the 60-day notice period or shortly thereafter [Personal Privacy] intends to file a citizen's suit under §505(a) of the Clean Water Act against the Port for violations at the facilities identified in this NOTICE.

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During the 60-day notice period, [Personal Privacy] is willing to discuss effective remedies for the violations noted in this NOTICE. However, if the Port wishes to pursue such discussions in the absence of litigation, it is suggested that those discussions be initiated within the next twenty (20) days so that they may be completed before the end of the 60-day notice period. [Person] does not intend to delay the filing of a lawsuit if discussions are continuing when that notice period ends.

Sincerely,

POLLOCK & JAMES, LLP



Mark S. Pollock

cc: Gina McCarthy, Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1101A
Washington, D.C. 20460

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Thomas Howard, Executive Director
State Water Resources Control Board
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Bruce H. Wolfe, Executive Officer
California Regional Water Quality Control Board
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Brooke A. Levin, Director
City of Oakland Public Works Department
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